

REMARKS

By this Reply, no amendments to the claims have been made. Accordingly, claims 1-38, 40-47, 49-58, 76-82, 84, 86-89, and 133-136 remain pending in this application. No new matter has been introduced by this Reply.

In the Final Office Action, claims 1-38, 40-47, 58, 59, 76-82, 84, 86-89, and 133-136 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,743,154 to James et al. ("James") in view of U.S. Patent No. 4,049,130 to Bell ("Bell").

Initially, Applicants wish to point out that although independent claims 80 and 133 were not amended in the Amendment dated February 17, 2006, the Examiner entered a new grounds of rejection against independent claims 80 and 133. Since the new grounds of rejection was not necessitated by Applicant's amendment, Applicants submit that the finality of the Final Office Action is premature, and respectfully request that the finality be withdrawn. Additionally, the Final Office Action did not address the status of claims 49-57 in the Detailed Action section. In order to be fully responsive to the Office Action, Applicants have treated these claims as if they were rejected, and have provided arguments accordingly.

Applicants respectfully traverse the rejection of independent claims 1, 23, 53, 76, 80, 86, and 133, as being unpatentable over James in view of Bell.

James discloses a pallet inspection and repair system including a vertically reciprocating lift table 19, and a pallet discharge conveyor 23 that includes a plurality of drive chains 121, 122, and 123. James, col. 4, lns. 28-37. Each of the drive chains 121,

122, and 123, carries a lug 132 that engages the back end of a pallet placed on lift table 19. James, col. 7, Ins. 14-16 and 40-52.

James fails to teach or suggest a cantilevered pusher bar or arm "having a pallet contacting portion that is vertically spaced away from the platform when the pusher bar is in a dispensing position, such that there is a gap between the pallet contacting portion and the platform," as required by independent claims 1, 23, 53, 76, and 86. On page 2 of the Office Action, the Examiner acknowledges the deficiency in James by stating that James "does not specifically disclose . . . the pusher being spaced above the platform surface."

Nevertheless, the Examiner cites Bell. Bell discloses an "apparatus for counting yieldable flat articles such as paperback books or the like," wherein, "a known quantity of books is sliced from the lower ends of the stacks S by horizontally movable counting-by-measuring structure including vertically extending pushers 22 secured to push rods 23 secured at their outer ends to a yoke 24 The operation of pushers 22 is such as to place the measured (counted) stacks on to a platform 28." Bell, col. 2, Ins. 8-25.

On page 3 of the Office Action, the Examiner contends that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of JAMES ET AL by adding the pusher of BELL in order to achieve the greater pushing force made possible by a pneumatic pusher." Applicants disagree with the Examiner's contention, and submit that the Examiner has failed to meet the criteria for establishing a *prima facie* case of obviousness. In regard to obviousness, the M.P.E.P. recites the following:

"To establish a *prima facie* case of obviousness . . . there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." M.P.E.P. § 2143.

"If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." M.P.E.P. § 2143.01.

"If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." M.P.E.P. § 2143.01.

In James, forks 21 and 22 are "driven into openings between stringers in the pallet The lift table 19 is then lowered . . . carrying with it the lowermost pallet 301 of the stack, the remaining pallets 302-305 of the stack being suspended by the extended forks 21 and 22. The pallet P1 removed from the stack is then driven off the lift table 19 by the pallet discharge conveyor 23 onto the pallet inspection table 15 (FIG. 1)." James, col. 4, lns. 53-55 and 62-68, and col. 5, ln. 1. By stripping one pallet at a time from the stack, James provides an operator with the ability to inspect the top and bottom surfaces of pallet P1. See *Id.* at Abstract and col. 10, lns. 10-20. Bell, however, teaches pushers 22 that remove several articles at a time from stack S. Bell, FIGS. 4-6. Thus, if pushers 22 of Bell were added to James, they would move not only pallet P1, but also remaining pallets 302-305, onto inspection table 15. Doing so would destroy the operator's ability to inspect the top and bottom surfaces of pallet P1, rendering the system in James unsatisfactory for its intended purpose of pallet inspection and repair. Since the Examiner's proposed modification of James with Bell would render James unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the Examiner's proposed modification. See M.P.E.P. 2143.01.

Also, at least one of remaining pallets 302-305 of James is held in a fixed position by forks 21 and 22. Thus, adding pushers 22 of Bell to the system in James would also require changing the operation and structure of James to allow the fixed pallet (e.g. pallet 3 in FIG. 15 of James) to be pushed off of forks 21 and 22, so that pushers 22 of Bell can move the other pallets. Since the Examiner's proposed modification of James with Bell would require changing the principle of operation of James, then there is no suggestion or motivation to make the Examiner's proposed modification. See M.P.E.P. 2143.01.

Furthermore, on page 2 of the Office Action, the Examiner asserts that "the claimed 'cantilevered pusher bar' is being read on the pusher lugs of JAMES ET AL, since they are held rigidly on the end secured to the conveyor and extend outward to engage the pallet." However, the pallet contacting portion of lug 132 of James is not vertically spaced away from the platform, and no gap exists between the pallet contacting portion of lug 132 and the platform. Therefore James certainly fails to disclose or suggest a cantilevered pusher bar or arm "having a pallet contacting portion that is vertically spaced away from the platform when the pusher bar is in a dispensing position, such that there is a gap between the pallet contacting portion and the platform," as required by independent claims 1, 23, 53, 76, and 86. Adding pushers 22 of Bell to James does not change or modify lug 132 in any way, and so the teachings of Bell fail to remedy this deficiency of James.

For all of the above reasons, James and Bell, whether alone or in combination, is not sufficient to render independent claims 1, 23, 53, 76, and 86 *prima facie* obvious.

Accordingly, Applicants request withdrawal of the rejection of independent claims 1, 23, 53, 76, and 86, and request the timely allowance thereof.

Applicants also respectfully traverse the rejection of independent claims 80 and 133 as being unpatentable over James in view of Bell. Independent claims 80 and 133 recite, *inter alia*, “building a load on the dispensed pallet; providing relative rotation between a packaging material dispenser and the load to wrap packaging material around the load.” On page 4 of the Office Action, the Examiner contends that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to load the pallets and wrap the load as claimed, holding loads is a primary function of pallets and wrapping loads is well known in the art.” However, according to the M.P.E.P.:

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” M.P.E.P. § 2143.03.

Applicants submit that the Examiner has failed to establish *prima facie* obviousness because all of the claim limitations recited in independent claims 80 and 133 are not taught or suggested by James and Bell. James actually teaches against loading the pallet and wrapping the load. For example, James discloses that “the pallet P1 removed from the stack is then driven off the lift table 19 by the pallet discharge conveyor 23 onto the pallet inspection table 15,” and “a pallet positioned on the table top is up-ended (see FIG. 6A). The operator can pivot the pallet manually about its lower end to inspect or repair the pallet The pallet can easily be ‘flipped’ over by the operator.” James, col. 4, Ins. 66-68, col. 5, ln. 1, and col. 10, Ins. 9-11 and 15. Building a load on pallet P1 and wrapping the load with packaging material

would destroy the operator's ability to pivot pallet P1, flip pallet P1, and/or inspect pallet P1. Accordingly, neither James nor Bell teaches or suggests all of the claim limitations recited in independent claims 80 and 133, and thus, the Examiner has failed to establish *prima facie* obviousness for rejecting these independent claims.

For all of the above reasons the teachings of James and Bell are not sufficient to render independent claims 80 and 133 *prima facie* obvious. Accordingly, Applicants request withdrawal of the rejection of independent claims 80 and 133, and request the timely allowance thereof.

Claims 2-22, 24-38, 40-47, 49-52, 54-58, 77-79, 81, 82, 84, 87-89, and 134-136 depend either directly or indirectly from one of independent claims 1, 23, 53, 76, 80, 86, and 133, and are therefore allowable for at least the same reasons that independent claims 1, 23, 53, 76, 80, 86, and 133 are allowable. In addition, at least some of these claims recite unique combinations that are neither taught nor suggested by the cited art, and are therefore also separately patentable.

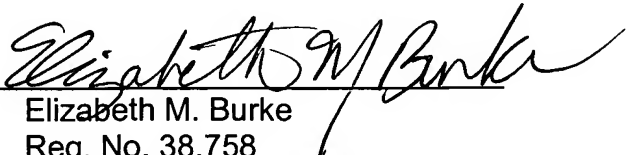
In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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